

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jul 22, 2020**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

BARBARA DAVIS, as Personal  
Representative of the Estate of G.B.,  
deceased,

Plaintiff,

v.

JENNIFER STRUS, individually and in  
her official capacity acting under the  
color of state law; HEIDI KAAS,  
individually and in her official capacity  
acting under the color of state law;  
MELISSA KEHMEIER, individually  
and in her official capacity acting under  
the color of state law; JAMES  
DESMOND, individually and in his  
official capacity acting under the color  
of state law; CASSIE ANDERSON,  
individually and in her official capacity  
acting under the color of state law;  
BRINA CARRIGAN, individually and  
in her official capacity acting under the  
color of state law; MAGGIE  
STEWART, individually and in her  
official capacity acting under the color  
of state law; LORI BLAKE,  
individually and in her official capacity  
acting under the color of state law;  
SHANNON SULLIVAN, individually  
and in her official capacity acting under  
the color of state law; SUSAN

No. 2:17-cv-00062-SMJ

**ORDER GRANTING PLAINTIFF'S  
MOTION AND DENYING  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT  
REGARDING STATUTORY  
BENEFICIARIES**

ORDER GRANTING PLAINTIFF'S MOTION AND DENYING  
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT RE:  
STATUTORY BENEFICIARIES – 1

1 STEINER, individually and in her  
2 official capacity acting under the color  
3 of state law; CAMERON NORTON,  
4 individually and in his official capacity  
5 acting under the color of state law;  
6 SARAH OASE, individually and in her  
7 official capacity acting under the color  
8 of state law; RANA PULLOM,  
9 individually and in her official capacity  
10 acting under the color of state law;  
11 DONALD WILLIAMS, individually  
12 and in his official capacity acting under  
13 the color of state law; CHRIS MEJIA,  
14 individually and in his official capacity  
15 acting under the color of state law;  
16 RIVERSIDE SCHOOL DISTRICT NO.  
17 416, a Municipal Corporation duly  
18 organized and existing under the laws  
19 of Washington State; JUANITA  
20 MURRAY, individually and in her  
official capacity acting under the color  
of state law; ROBERTA KRAMER,  
individually and in her official capacity  
acting under the color of state law;  
SARAH RAMSDEN, individually and  
in her official capacity acting under the  
color of state law; CAROLINE  
RAYMOND, individually and in her  
official capacity acting under the color  
of state law; CHERI MCQUESTEN,  
individually and in her official capacity  
acting under the color of state law;  
SARAH RAMSEY, individually and in  
her official capacity acting under the  
color of state law; TAMI BOONE,  
individually and in her official capacity  
acting under the color of state law;  
MELISSA REED, individually and in  
her official capacity acting under the

ORDER GRANTING PLAINTIFF'S MOTION AND DENYING  
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT RE:  
STATUTORY BENEFICIARIES – 2

1 color of state law; ANN STOPAR,  
2 individually and in her official capacity  
3 acting under the color of state law;  
4 KRISTINA GRIFFITH, individually  
5 and in her official capacity acting under  
6 the color of state law; WENDY  
7 SUPANCHICK, individually and in her  
8 official capacity acting under the color  
9 of state law; SHERRY DORNQUAST,  
10 individually and in her official capacity  
11 acting under the color of state law;  
12 GARY VANDERHOLM, individually  
13 and in his official capacity acting under  
14 the color of state law; ROGER PRATT,  
15 individually and in his official capacity  
16 acting under the color of state law;  
17 CHRIS NIEUWENHUIS, individually  
18 and in his official capacity acting under  
19 the color of state law; and JOHN DOES  
20 1–50, individually and in their official  
capacities acting under the color of state  
law,

Defendants.

On July 14, 2020, the Court heard oral argument on the Individual State Defendants’<sup>1</sup> “Motion for Partial Summary Judgment Re: Statutory Beneficiaries” (“Defendants’ Motion”), ECF No. 347, and Plaintiff’s “Motion for Partial Summary

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<sup>1</sup> The Individual State Defendants include Cassie Anderson, Lori Blake, Brina Carrigan, James Desmond, Melissa Kehmeier, Chris Mejia, Cameron Norton, Sarah Oase, Rana Pullom, Susan Steiner, Maggie Stewart, Jennifer Strus, Shannon Sullivan, and Donald Williams. ECF No. 347.

1 Judgment Re: Statutory Beneficiaries” (“Plaintiff’s Motion”), ECF No. 361. The  
2 Riverside Defendants<sup>2</sup> and Defendant Sherry Dornquist joined in Defendants’  
3 Motion. ECF Nos. 350, 351.

4 This case arises out of the death of G.B., a minor child. Defendants sought  
5 dismissal of all Plaintiff’s claims brought on behalf of G.B.’s minor siblings, S.D.A.  
6 and D.M.A.,<sup>3</sup> on the grounds that because those individuals were adopted after  
7 G.B.’s death, they are no longer statutory beneficiaries under the Washington State  
8 wrongful death statute. ECF No. 347. Plaintiff sought summary judgment that  
9 S.D.A., D.M.A., and Vida Mercedes Cruz, an adult sibling of G.B., were and remain  
10 statutory beneficiaries under the Washington state wrongful death statute and that  
11 Plaintiff may recover non-economic damages on their behalf. ECF No. 361. At the  
12 conclusion of the hearing, the Court found S.D.A. and D.M.A.’s adoption did not  
13 sever their sibling relationship under the wrongful death statute and thus granted  
14 Plaintiff’s Motion and denied Defendants’ Motion. This order memorializes and

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15 <sup>2</sup> The Riverside Defendants include the Riverside School District, No. 416; Tami  
16 Boone; Kristina Griffith; Roberta Kramer; Chris Nieuwenhuis; Cheri McQuesten;  
17 Juanita Murray; Roger Pratt; Sarah Ramsden; Caroline Raymond; Melissa Reed;  
Ann Stopar; Wendy Supanchick; and Gary Vanderholm. ECF No. 350.

18 <sup>3</sup> In the parties’ filings, S.D.A. is also referred to as S.D.B. and S.B. and D.M.A. is  
19 also referred to as D.M.A.J. and D.J. *See* ECF No. 347 at 2; ECF No. 361 at 1.  
20 However, because the children’s names are currently S.D.A. and D.M.A., the Court  
will use these names. *See* ECF No. 349 at 11–12, 13–14.

1 supplements the Court's oral ruling.

## 2 BACKGROUND

3 This case arises out of the tragic death of G.B., a minor child, in April 2015  
4 while in the custody of his aunt. *See* ECF No. 1 at 13–14. The detailed factual  
5 background of G.B.'s death has been set forth in multiple prior orders, *see* ECF  
6 Nos. 221, 281 & 368, and the Court finds it unnecessary to repeat that general  
7 background in full here.

8 At the time of his death, G.B. had three siblings: minors S.D.A. and D.M.A.,  
9 and Vida Mercedes Cruz. ECF No. 362. When G.B. died, he as well as well as  
10 S.D.A. and D.M.A. were wards of the state. ECF No. 1 at 19. On September 14,  
11 2016 G.B.'s grandmother, on behalf of G.B.'s Estate and the Estate's statutory  
12 beneficiaries, brought this action against the Washington State Department of Social  
13 and Health Services ("DSHS") and the Riverside School District, along with  
14 numerous employees of those entities. ECF No. 1. Plaintiff has identified S.D.A.,  
15 D.M.A., and Cruz as statutory beneficiaries. ECF No. 349 at 7–8. On November 14,  
16 2016, S.D.A. and D.M.A. were adopted. *Id.* at 11–12, 13–14.

17 The Individual State Defendants asked Plaintiff to admit that S.D.A. and  
18 D.M.A. were no longer statutory beneficiaries for purposes of the wrongful death  
19 statute. ECF No. 347 at 2. When Plaintiff denied the request for admission,  
20 Defendants filed Defendants' Motion and Plaintiff later filed Plaintiff's Motion. *Id.*

## LEGAL STANDARD

The Court must grant summary judgment if “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A fact is “material” if it “might affect the outcome of the suit under the governing law.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A dispute about a material fact is “genuine” if “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Id.*

In ruling on a summary judgment motion, the Court must view the evidence in the light most favorable to the nonmoving party. *See Tolan v. Cotton*, 572 U.S. 650, 657 (2014) (quoting *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157 (1970)). Thus, the Court must accept the nonmoving party’s evidence as true and draw all reasonable inferences in its favor. *See Anderson*, 477 U.S. at 255. The Court may not assess credibility or weigh evidence. *See id.* Nevertheless, the nonmoving party may not rest upon the mere allegations or denials of its pleading but must instead set forth specific facts, and point to substantial probative evidence, tending to support its case and showing a genuine issue requires resolution by the finder of fact. *See Anderson*, 477 U.S. at 248–49.

## DISCUSSION

Washington law provides a wrongful death action may be pursued: (1) “for the benefit of the spouse, state registered domestic partner, child or children,

1 including stepchildren,” or (2) “[i]f there is no spouse, state registered domestic  
2 partner, or such child or children, such action may be maintained for the benefit of  
3 the parents or siblings of the deceased.” Wash. Rev. Code § 4.20.020. The  
4 interpretation of this statute is a matter of law. *See Matter of Estate of Reid*, 401  
5 P.3d 437, 439 (Wash. Ct. App. 2017), *review denied*, 407 P.3d 1138 (Wash. 2018).

6 When the Court engages in interpretation, it must “endeavor to determine and  
7 give effect to the legislature’s intent.” *In re Estate of Blessing*, 273 P.3d 975, 976  
8 (Wash. 2012). If “the statute’s meaning is plain on its face,” then the Court must  
9 give effect to that meaning. *Id.* The Court discerns a statute’s plain meaning by  
10 reference to the “ordinary meaning of the language at issue, the context of the statute  
11 in which the provision is found, related provisions, and the statutory scheme as a  
12 whole.” *Id.* (citing *State v. Jacobs*, 115 P.3d 281, 283 (Wash. 2005). “When a  
13 statutory term is undefined, the court may look to a dictionary for its ordinary  
14 meaning.” *Id.* (citing *State v. Gonzalez*, 226 P.3d 131, 134 (Wash. 2010).

15 Defendants do not dispute that S.D.A., D.M.A., and Vida Mercedes Cruz  
16 were G.B.’s siblings and thus statutory beneficiaries of G.B.’s estate prior to S.D.A.  
17 and D.M.A.’s adoptions. ECF No. 372 at 5. Nor do Defendants challenge that  
18 Plaintiff, as the representative of G.B.’s estate, is entitled to pursue non-economic  
19 damages on behalf of G.B.’s statutory beneficiaries. *See* ECF No. 372. However,  
20 Defendants argue that when S.D.A. and D.M.A. were adopted, their sibling

1 relationship with G.B. was severed and they ceased to be statutory beneficiaries  
2 under the wrongful death statute. ECF No. 347 at 3–4; ECF No. 372 at 5. Thus, the  
3 question raised in the instant motions is whether the legislature intended the  
4 adoption of decedent’s sibling after the decedent’s death to sever the familial  
5 relationship for purposes of qualifying as a statutory beneficiary under the wrongful  
6 death statute.

7 As a preliminary matter, the Washington state courts have not addressed the  
8 precise issue before the Court. At oral argument, the parties each represented that  
9 they believe Washington courts have addressed the issue, albeit with differing  
10 outcomes. However, as explained below, while the cases each party cites address  
11 issues that may be related to the issue before the Court, none answer this particular  
12 question of law. In the absence of controlling Washington Supreme Court  
13 precedent, the Court must apply the law as it believes the Washington Supreme  
14 Court would under the circumstances. *See Comm’r v. Estate of Bosch*, 387 U.S. 456,  
15 465 (1967) (“If there is no decision by [the Washington Supreme] court then federal  
16 authorities must apply what they find to be the state law after giving ‘proper regard’  
17 to relevant rulings of other courts of the State”).

18 The term “sibling” is not defined in Revised Code of Washington § 4.20.005.  
19 The Court further finds, as in *Matter of Estate of Reid*, that neither the literal  
20 language of Revised Code of Washington § 4.20.020 nor the dictionary definition



1 of “sibling” provides clarity on the question at issue. *See* 401 P.3d at 439 (finding  
2 neither literal language of Revised Code of Washington § 4.20.020 nor dictionary  
3 definitions of “child” helped to determine whether legislature intended child  
4 adopted before biological parent’s death to qualify as a statutory beneficiary of that  
5 biological parent for wrongful death action). Thus, the Court turns to Washington  
6 case law and the text of the statute.

7 **A. S.D.A. and D.M.A.’s sibling relationship with G.B. was not severed by**  
8 **their adoption after G.B.’s death**

9 Reviewing the wrongful death statute and the decisions in *Estate of Blessing*,  
10 273 P.3d 975, 976 (Wash. 2012), and *Leren v. Kaiser Gypsum*, 442 P.3d 273, 284  
11 (Wash. Ct. App. 2019), the Court finds that S.D.A. and D.M.A.’s sibling  
12 relationship with G.B., which existed at the time of his death, was not severed by  
13 their subsequent adoption for the purposes of the wrongful death statute.

14 The statutory beneficiaries’ right to recover under a wrongful death cause of  
15 action vests—in a manner akin to a property right—at the time of the wrongful  
16 death. *See Wood v. Dunlop*, 521 P.2d 1177, 1180 (Wash. 1974). Thus, in this case,  
17 S.D.A. and D.M.A.’s rights as statutory beneficiaries vested prior to their adoptions,  
18 at the time of G.B.’s death. Defendants have not identified any Washington law  
19 providing that S.D.A. and D.M.A.’s subsequent adoption while this wrongful death  
20 action was pending divested them of this right. In the absence of such precedent

1 from the Washington state courts, this Court declines to create such an expansion  
2 on Washington law.

3 The Court also looks to the decisions in *Estate of Blessing* and *Leren v. Kaiser*  
4 *Gypsum* as illustrative of the principles Washington courts look to in reviewing the  
5 status of persons as beneficiaries under the wrongful death statute. *Estate of*  
6 *Blessing* and *Leren* both resolved questions related to whether stepchildren remain  
7 beneficiaries under the wrongful death statute after the relationship between the  
8 parent and stepparent ends.<sup>4</sup> *Estate of Blessing*, 273 P.3d at 975; *Leren*, 442 P.3d  
9 at 283.

10 In *Estate of Blessing*, the Washington Supreme Court found that the step-  
11 relationship had continued even though the stepchild's biological parent  
12 predeceased the stepparent, and, because the "tie of affinity" between the stepparent  
13 and stepchild survived the death of the parent, the stepchild retained her status as a  
14 beneficiary under the wrongful death statute. 273 P.3d at 978. In reaching this  
15 conclusion, the court noted that Revised Code of Washington § 4.20.020 employs  
16 the term "'stepchildren' without defining or limiting the term," and that there was  
17 nothing in the dictionary definition "precluding the plain meaning that a step-

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18  
19 <sup>4</sup> In *Estate of Blessing*, the relationship between parent and stepparent was severed  
20 by the parent's death prior to the stepparent's death, while in *Leren*, the parent and  
stepparent divorced prior to the stepparent's death. *Estate of Blessing*, 273 P.3d  
at 975; *Leren*, 442 P.3d at 283.

1 relationship could remain intact past the death of the children's natural or adoptive  
2 parent." *Id.* The court also looked to the reasoning in *In re Estate of Bordeaux*, 225  
3 P.2d 433 (Wash. 1950) that, where the "relationship by affinity" is "continued  
4 beyond the death of one of the parties to the marriage which created the relationship,  
5 and where the parties continue to maintain the same family ties and relationships,  
6 considering themselves morally bound to care for each other, the District Court  
7 properly found that the relationship continued to exist." *Id.* (quoting *Estate of*  
8 *Bordeaux*, 225 P.2d at 443).

9 The Washington Court of Appeals in *Leren* followed *Estate of Blessing* when  
10 it reviewed the relationship between a stepchild and stepparent after the parent and  
11 stepparent divorced and determined that the bonds of affinity between the stepchild  
12 and the stepparent "indisputably lasted until the end of [the stepparent's] death."  
13 *Leren*, 442 P.3d at 285. The Court also noted that "[d]ivorces do not, in theory,  
14 sever the bonds of affinity between a stepparent and a stepchild any more than  
15 between a parent and a biological child." *Leren*, 442 P.3d at 285.

16 Here, as in *Estate of Blessing* and *Leren*, the Court looks to whether the bonds  
17 of affinity continued to the decedent's death. They clearly did. Defendants do not,  
18 nor could they, argue that G.B., S.D.A., and D.M.A. did not retain their bonds of  
19 affinity after the deaths of their parents, when they together became wards of the  
20 estate and were placed in the custody of their aunt. *See* ECF Nos. 347, 369. Indeed,

1 Defendants admit that at the time of G.B.’s death, S.D.A. and D.M.A. were statutory  
2 beneficiaries. ECF No. 372 at 5. The event that severed the bond of affinity between  
3 G.B. and his siblings was G.B.’s tragic death, not S.D.A. and D.M.A.’s subsequent  
4 adoption. Thus, the logic of *Estate of Blessing* and *Leren* supports the conclusion  
5 that S.D.A. and D.M.A.’s adoption did not divest them of their status as statutory  
6 beneficiaries for the wrongful death statute.

7 **B. Defendants’ arguments to the contrary rely on inapplicable cases**

8 **1. *In re Estate of Reid***

9 Defendants argue this case is similar to the *Matter of Estate of Reid*, 401  
10 P.3d 437, 439 (Wash. Ct. App. 2017), *review denied*, 407 P.3d 1138 (Wash. 2018).  
11 ECF No. 347 at 3–4. In *Estate of Reid*, Reid had a biological child, Saludares, who  
12 was adopted at the age of two by Reid’s parents. *Estate of Reid*, 401 P.3d. at 438.  
13 Reid subsequently had two other children who were not adopted. *Id.* Upon Reid’s  
14 death, Saludares and the two other children disputed whether Saludares was a  
15 statutory beneficiary under the wrongful death statute. *Id.* The Court of Appeals  
16 held that, “as a result of his adoption, Saludares became the ‘child, legal heir, and  
17 lawful issue’ of his adoptive parents and not of his biological mother ‘for all legal  
18 incidents,’ including wrongful death actions.” *Id.* at 440. However, as Plaintiff  
19 argues, *Estate of Reid* is distinguishable for two primary reasons: (1) *Estate of Reid*  
20 pertains to the termination of the parental relationship, and (2) *Estate of Reid*

1 pertains to an adoption prior to the decedent's death. ECF No. 361 at 6–7. The Court  
2 agrees these distinctions, particularly the latter, are essential.

3 In determining whether Saldares was a statutory beneficiary, the  
4 Washington Court of Appeals looked to Washington's adoption statute to guide an  
5 interpretation that resulted in a "harmonious total statutory scheme" that "maintains  
6 the integrity of the respective statutes." *Estate of Reid*, 401 P.3d. at 440 (quoting  
7 *State ex rel. Peninsula Neigh. Ass'n v. Dep't of Transp.*, 12 P.3d 134, 142  
8 (Wash. 2000)). Wash. Rev. Code § 26.33.260(1) sets forth the legal effect of an  
9 adoption as follows:

10 The entry of a decree of adoption divests any parent or alleged father  
11 who is not married to the adoptive parent or who has not joined in the  
12 petition for adoption of all legal rights and obligations in respect to the  
13 adoptee, except past-due child support obligations. The adoptee shall  
14 be free from all legal obligations of obedience and maintenance in  
15 respect to the parent. The adoptee shall be, to all intents and purposes,  
16 and for all legal incidents, the child, legal heir, and lawful issue of the  
17 adoptive parent, entitled to all rights and privileges, including the right  
18 of inheritance and the right to take under testamentary disposition, and  
19 subject to all the obligations of a natural child of the adoptive parent.

20 While this statute explicitly divests parents of legal rights and obligations and  
renders the adoptee the "legal heir, and lawful issue of the adoptive parent," it does  
not set forth the legal effects of adoption on the relationship at issue in this case—  
that of the adopted child's siblings. Thus, while instructive in *Estate of Reid*,  
Revised Code of Washington § 26.33.260(1) does not resolve the legal question

1 before the Court.

2 Moreover, while Revised Code of Washington § 26.33.260(1) explicitly  
3 addresses the relationship between parent and adopted child, and case law similarly  
4 supports giving an adopted child a “fresh start” through severing ties with the  
5 biological parent, *see Estate of Reid*, 401 P.3d. at 440 (collecting cases), the  
6 Washington legislature has specifically noted the importance of maintaining sibling  
7 relationships even after adoption. *See* Wash. Rev. Code § 26.33.420. Specifically,  
8 the Washington legislature found as follows:

9 The legislature finds that the importance of children’s relationships  
10 with their siblings is well recognized in law and science. . . . The  
11 legislature finds, however, that when one or more of the siblings is  
12 adopted from foster care, these relationships may be severed  
13 completely if an open adoption agreement fails to attend to the needs  
14 of the siblings for continuing postadoption contact. The legislature  
intends to promote a greater focus, in permanency planning and  
adoption proceedings, on the interests of siblings separated by  
adoptive placements and to encourage the inclusion in adoption  
agreements of provisions to support ongoing postadoption contact  
between siblings.

15 Wash. Rev. Code § 26.33.420. The legislature also imposed a specific duty on  
16 Washington courts, in reviewing and approving open adoption agreements, to  
17 encourage parties to “seriously consider the long-term benefits to the child adoptee  
18 and siblings of the child adoptee of providing for and facilitating continuing  
19 postadoption contact between siblings.” Wash. Rev. Code § 26.33.430. Because  
20 this statute tempers the legislative intent to provide a child with a “clean slate”

1 specifically as to the child's sibling relationships, the Court declines to adopt  
2 Defendants' sweeping conclusion that the adoption of one sibling necessarily severs  
3 the sibling relationship for the purposes of the wrongful death statute. Regardless,  
4 the conclusions in *Estate of Reid* regarding the effect of a pre-death adoption on a  
5 parent-child relationship are inapplicable to the issue before this Court.

6 **2. *In re Estate of Fleming***

7 Defendants argue that it is "axiomatic that if following their adoptions SDA  
8 and DMA are no longer legally considered the 'child' of their biological parents,  
9 they likewise cannot be considered the 'siblings' of G.B." ECF No. 372 at 12.  
10 Defendants point to *In re Estate of Fleming*, 21 P.3d 281 (Wash. 2001), to support  
11 their proposition that the termination of the parent-child relationship divests the  
12 siblings of their inheritance rights from other siblings. ECF No. 372 at 12. However,  
13 *Estate of Fleming* is distinguishable because it involved the interpretation of a  
14 statute that expressly ties sibling inheritance through a shared parental relationship.  
15 *Estate of Fleming*, 21 P.3d 284.

16 Specifically, the Washington Supreme Court in *Estate of Fleming* was  
17 interpreting right of inheritance for the estate of an intestate decedent, Thomas,  
18 whose biological mother placed him for adoption. *Id.* at 283. Approximately one  
19 year after Thomas's birth, a parental termination order was issued providing  
20 Thomas's biological mother was "permanently deprived of any and all maternal

1 rights and interest in and to the said Baby Boy Fleming” and Thomas was placed  
2 into the custody of a charitable organization, though he was never adopted. *Id.* Upon  
3 Thomas’s death, Thomas’s biological mother and half-sibling, who was born to the  
4 biological mother after she terminated her parental rights to Thomas, sought to  
5 inherit through intestate inheritance. *Id.*

6 To determine whether the biological mother and biological half-sibling were  
7 entitled to inherit, the Court looked to the legal effect of the termination order and  
8 to the intestate distribution statute. *Id.* The intestate distribution statute expressly  
9 limits inheritance in cases where there is no surviving spouse or issue of the intestate  
10 “to those issue of the parent or parents who survive the intestate.” *Id.* at 284 (citing  
11 Wash. Rev. Code § 11.04.015(2)). If there is no surviving spouse, issue, or parent  
12 of the intestate, then distribution goes “to those issue of the parent or parents who  
13 survive the intestate.” *Id.* (citing Wash. Rev. Code § 11.04.015(2)).

14 In relation to the parent, the Washington Supreme Court determined that  
15 “[c]ontemporary probate and adoption statutes provide ample evidence the  
16 Legislature has abandoned consanguinity as the overriding policy consideration  
17 where the parent-child relationship is terminated” and that the legal effect of  
18 severing one’s parental rights and interests in a child rendered her no longer the  
19 decedent’s legal parent. *Id.* Thus, the biological mother was not entitled to intestate  
20 distribution because she severed the parent-child relationship between herself and



1 Thomas. *Id.* at 285–86. As to the biological sibling’s claim to the inheritance, the  
2 Court found that because “right of a sibling to inherit from a deceased sibling is  
3 based upon the person’s status as the issue of a common parent; there is no direct  
4 distribution to a person based upon his or her status as a sibling of the deceased.”  
5 *Id.* at 286. Thus, the intestate succession to a biological sibling was severed when  
6 the parental rights were terminated. *Id.*

7       However, the wrongful death statute, unlike the intestate distribution statute  
8 creates a beneficiary group based on the sibling relationship itself, which is notably  
9 *not* tied through the parental relationship. *Compare* Wash. Rev. Code  
10 § 11.04.015(2) (“If the intestate not be survived by issue or by either parent, then to  
11 *those issue of the parent or parents* who survive the intestate”) (emphasis added)  
12 *with* Wash. Rev. Code § 4.20.020 (“If there is no spouse, state registered domestic  
13 partner, or such child or children, such action may be maintained for the benefit of  
14 the parents or *siblings* of the deceased.”) (emphasis added). Further, the Washington  
15 Supreme Court, in *Estate of Blessing*, explicitly acknowledged the continuance of  
16 a relationship listed in the wrongful death statute even after the relationship that  
17 created the status had ended. *Estate of Blessing*, 273 P.3d at 977–78. Thus, *Estate*  
18 *of Fleming* does not address the issue before the Court.

## 19 CONCLUSION

20 S.D.A., D.M.A., and Vida Mercedes Cruz were statutory beneficiaries at the

1 time of G.B.'s death for the purposes of the wrongful death statute, which explicitly  
2 permits the representative of the decedent's estate to recover non-economic  
3 damages on behalf of the decedent's beneficiaries. Having reviewed the wrongful  
4 death statute, the adoption statutes, and Washington state courts legal precedent, the  
5 court finds that S.D.A. and D.M.A.'s sibling relationship with G.B. was not severed  
6 by their adoption after G.B.'s death for the purposes of their right to recover under  
7 Revised Code of Washington § 4.20.020.

8 Accordingly, **IT IS HEREBY ORDERED:**

9 **1.** Defendants' "Motion for Partial Summary Judgment Re: Statutory  
10 Beneficiaries," **ECF No. 347**, is **DENIED**.

11 **2.** Plaintiff's "Motion for Partial Summary Judgment Re: Statutory  
12 Beneficiaries," **ECF No. 361**, is **GRANTED**.

13 **3.** The Court determines the following:

14 **A.** S.D.A., D.M.A., and Vida Mercedes Cruz, as G.B.'s siblings,  
15 are statutory beneficiaries of G.B.'s estate under Wash. Rev.  
16 Code § 4.20.020;

17 **B.** S.D.A. and D.M.A.'s adoption after G.B.'s death did not sever  
18 their sibling relationship with G.B. for purposes of their right to  
19 recover under Wash. Rev. Code § 4.20.020; and


20 //

ORDER GRANTING PLAINTIFF'S MOTION AND DENYING  
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT RE:  
STATUTORY BENEFICIARIES – 18

1           C.     Plaintiff, as the representative of G.B.'s estate, can recover non-  
2                       economic damages on behalf of G.B.'s beneficiaries.

3           **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
4 provide copies to counsel for all parties.

5           **DATED** this 22<sup>nd</sup> day of July 2020.

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7                       \_\_\_\_\_  
8                       SALVADOR MENDOZA, JR.  
9                       United States District Judge  
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